pans under the refrigerator, and admitted no other person, the saloon was not closed within the meaning of the statute.

This would seem to be following the general rule, though perhaps unfair on its face. The offense which the statute contemplates is the keeping open of a saloon on the Sabbath day. The object of the legislature was to remove all temptations from idle and dissolute persons who might be disposed to congregate at such places, and violate the Sabbath by any improper conduct. The law presumes an injury to the public by keeping open the doors of a saloon on the Sabbath day, or why prohibit it? The offense is complete under the law when it is established that the defendant has kept open a saloon on that day, without further proof of injury to individuals or the neighborhood. *Hall v. State,* 3 Ga. (Kelly) 18. A tippling house may be kept open night or day during the week, but on the Sabbath day the law says that it must be closed, absolutely closed, the front, sides and rear. It makes no difference as to whether any liquors be sold or not, the offense consists in its being open, not in selling or offering to sell, or giving it away. *Harvey v. Harvey,* 65 Ga. 568. Some states, however, look more to the spirit of the law, and it has been held that merely keeping open the doors of a tippling-house on Sunday is not an offense within the statute, forbidding such house to be kept open on Sunday, *Potter v. City of Centralia,* 47 Ill. 370. And see, *Krorer v. People,* 78 Ill. 284; *Koop v. The People,* 47 Ill. 327. In *State v. Gregory,* 47 Conn. 276, a charge that "if the room was ordinarily used for any other purpose of business, no matter what, it must be closed between those hours" (twelve o'clock Saturday night to twelve o'clock on Sunday night) no matter what other ordinary business it might be desired to carry on there, was held clearly contrary to the spirit of the law, and therefore erroneous.

LIBEL—WORDS LIBELOUS PER SE.—NEW YORK BUREAU OF INFORMATION V. RIDGWAY-THAYER CO., ET AL., 104 N. Y. SUPP. 202. An article, entitled "Bucket Shop Sharks," reading: "One of M.'s most intimate friends and active lieutenants is K., founder of the New York Bureau of Information, now managed by his brother, K. K. is a tout, sleek enough in his methods to have corralled bankers and brokers of unimpeachable legitimacy as clients for the New York Bureau of Information. His portrait, until it was surreptitiously removed, was No. 295-G, in the Chicago Rogues' Gallery, and he has the distinction of having served a penal sentence for the larceny of goods from such masters of merchantry as Levi Z. Leiter and Marshall Field"—was libelous per se as to the New York Bureau of Information, whether the statements in regard to K. referred to the founder of the bureau or to his brother. Ingraham and Scott, JJ., *dissenting.*

MASTER AND SERVANT—FELLOW SERVANTS.—PAYNE V. GEORGETOWN LUMBER CO., 42 So. 475 (LA.).—*Held,* that employees in a saw-mill who are not co-associated in the same work are not fellow servants.

This decision reaffirms *Merritt v. Victoria Lumber Co.,* 111 La. 159, but is contrary to the general rule as to who are fellow servants; *i. e.,* all serving a common master and engaged in the same general business, although in different departments. *Cooley on Torts* [3rd Ed.], 1071. In England the rule extends to every member of an establishment. *Abraham v. Reynolds,* 5 H. & N. 143. In Massachusetts, Shaw, C. J., early held that an engineer could not recover for an injury in consequence of the negligence of a switch-

man. *Nicholas Farwell v. Boston & Worcester R. R.*, 4 Met. 59; and later cases declared a carpenter and a switchman, a laborer and trainmen, fellow servants. *Gilman v. Eastern R. R. Co.*, 10 Allen 233; *Gilshannon v. Stony Brook R. R.*, 10 Cush. 228. And in *Lehigh Valley Coal Co. v. Jones*, 86 Pa. 432, it was said not to be essential that workmen should be engaged in the same particular work to be fellow servants. But *contra* to the rule, in *Toledo, etc., R. R. Co. v. O'Connor*, 77 Ill. 391, a laborer and an engine driver were held not to be fellow servants; and so as to a section man and a foreman, *Union Pacific R. R. Co. v. Erickson*, 41 Neb. 1. In Ohio a conductor and an engineer were declared not to be fellow servants. *Little Miami R. R. Co. v. Stevens*, 20 Ohio 415; and the same conclusion was reached in *Chicago, Milwaukee & St. Paul Ry. Co. v. Ross*, 112 U. S. 377, but under strong dissent.

MASTER AND SERVANT—INJURIES TO SERVANT—ASSUMPTION OF RISK.—LYON V. CHARLESTON & W. C. RY., 58 S. E. 13 (S. C.)—*Held*, where a flagman injured while uncoupling cars under the order of the conductor, which duty was within his employment, he assumed the risk. Gary, A. J., *dissenting.*

An employee cannot recover for an injury resulting from one of the usual risks or hazards connected with the business into which he has entered, and which the law will consider he assumed when undertaking the duties of the position. *Woodworth v. St. Paul M. & M. R. R. Co.* (C. C.) 18 Fed. 282. This rule is practically settled in the U. S. But he may contract to the contrary, *Foster v. Pussey*, 14 Atl. 545. A railroad brakeman assumes all the *ordinary* risks of the employment, *Chicago R. I. & P. Ry. Co. v. Clark*, 108 Ill. 113, but where a master coerces a servant into entering a dangerous employment the servant does not assume the risk, *Wells & French Co. v. Gortorski*, 50 Ill. App. 445. Again, the master may, if he chooses, carry on his business with an old machine rather than a new one, and a threat to discharge a servant unless he will perform the stipulated service, is not coercion, *Sweeny v. Berlin & Jones Envelope Co.*, 101 N. Y. 520. The dissenting opinion on the main case is a very strong one and he bases his opinion on the fact that the distinction between contributory negligence and assumption of risk is not a very shadowy one as the U. S. Supreme Court laid down in *Schlemmer v. Railroad*, 27 Sup. Ct. 407, but distinct and clear.

MASTER AND SERVANT—INJURIES TO THIRD PERSONS—LIABILITY OF MASTER—SAVANNAH ELECTRIC CO. V. WHEELER, ET AL., 58 S. E. 38 (GA.).—*Held*, that allegations that the company knowingly placed in charge of one of its passenger cars a conductor of bad character, who was drunk and armed with a pistol, and that a homicide occurred in the manner indicated in the preceding note, were not demurrable.

NEGLIGENCE—IMPUTED NEGLIGENCE.—DOCTOROFF V. METROPOLITAN ST. RY. CO., 105 N. Y. SUP. 229.—*Held*, that where the servant was riding on a truck, driven by his master at the time of the servant's injury in a collision between the truck and one of defendant's street cars, the negligence of the master, if any, was not imputable to the servant.

In general the concurrent negligence of third parties is no defense. *Getty v. Consolidated Gas Co.*, 96 Md. 683. But in the case of public conveyances in *Thorogood v. Bryan*, 8 C. B. 115, it was said that the plaintiff